

House Study Bill 552 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON VANDER LINDEN)

A BILL FOR

1 An Act concerning alcoholic beverage control, including
2 micro-distillery production and sales and dramshop liability
3 insurance requirements, requiring a comprehensive study on
4 alcoholic beverage control, and establishing fees.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 29, Code 2016, is
2 amended to read as follows:

3 29. "*Micro-distillery*" means a business with an operational
4 still which, combining all production facilities of the
5 business, produces and manufactures less than fifty nine
6 hundred thousand proof gallons of distilled spirits on an
7 annual basis.

8 Sec. 2. Section 123.28, Code 2016, is amended to read as
9 follows:

10 **123.28 Restrictions on transportation.**

11 It is lawful to transport, carry, or convey alcoholic
12 liquors from the place of purchase by the division to a state
13 warehouse or depot established by the division or from one such
14 place to another and, when so permitted by [this chapter](#), it
15 is lawful for the division, a common carrier, or other person
16 to transport, carry, or convey alcoholic liquor sold from a
17 state warehouse, depot, or point of purchase by the state to
18 any place to which the liquor may be lawfully delivered under
19 this chapter. The division shall deliver alcoholic liquor
20 purchased by class "E" liquor control licensees. Class "E"
21 liquor control licensees may deliver alcoholic liquor purchased
22 by class "A", "B", or "C" liquor control licensees and class
23 "C" micro-distilled spirits permittees, and class "A", "B",
24 or "C" liquor control licensees and class "C" micro-distilled
25 spirits permittees may transport alcoholic liquor purchased
26 from class "E" liquor control licensees. A common carrier or
27 other person shall not break or open or allow to be broken or
28 opened a container or package containing alcoholic liquor or
29 use or drink or allow to be used or drunk any alcoholic liquor
30 while it is being transported or conveyed, but [this section](#)
31 does not prohibit a private person from transporting individual
32 bottles or containers of alcoholic liquor exempted pursuant to
33 section 123.22 and individual bottles or containers bearing
34 the identifying mark prescribed in [section 123.26](#) which have
35 been opened previous to the commencement of the transportation.

1 This section does not affect the right of a special permit
2 or liquor control license holder to purchase, possess, or
3 transport alcoholic liquors subject to [this chapter](#).

4 Sec. 3. Section 123.32, subsection 1, Code 2016, is amended
5 to read as follows:

6 1. *Filing of application.* An application for a class "A",
7 class "B", class "C", or class "E" liquor control license, for
8 a class "A" micro-distilled spirits permit, for a class "C"
9 micro-distilled spirits permit, for a retail beer permit as
10 provided in [sections 123.128](#) and [123.129](#), or for a class "B",
11 class "B" native, or class "C" native retail wine permit as
12 provided in [section 123.178](#), [123.178A](#), or [123.178B](#), accompanied
13 by the necessary fee and bond, if required, shall be filed with
14 the appropriate city council if the premises for which the
15 license or permit is sought are located within the corporate
16 limits of a city, or with the board of supervisors if the
17 premises for which the license or permit is sought are located
18 outside the corporate limits of a city. An application for
19 a class "D" liquor control license and for a class "A" beer
20 or class "A" wine permit, accompanied by the necessary fee
21 and bond, if required, shall be submitted to the division
22 electronically, or in a manner prescribed by the administrator,
23 which shall proceed in the same manner as in the case of an
24 application approved by local authorities.

25 Sec. 4. Section 123.33, Code 2016, is amended to read as
26 follows:

27 **123.33 Records.**

28 Every holder of a liquor control license or a class "C"
29 micro-distilled spirits permit shall keep a daily record, in
30 printed or electronic format, of the gross receipts of the
31 holder's business. The records required and the premises of
32 the licensee or permittee shall be accessible and open to
33 inspection pursuant to [section 123.30, subsection 1](#), during
34 normal business hours of the licensee or permittee.

35 Sec. 5. Section 123.43A, subsection 2, Code 2016, is amended

1 to read as follows:

2 2. ~~A micro-distillery shall not sell more than one and~~
3 ~~one-half liters per person per day, of micro-distilled spirits~~
4 ~~on the premises of the micro-distillery. In addition, a A~~
5 micro-distillery shall not directly ship micro-distilled
6 spirits for sale at retail. ~~The micro-distillery shall~~
7 ~~maintain records of individual purchases of micro-distilled~~
8 ~~spirits at the micro-distillery for three years.~~

9 Sec. 6. Section 123.43A, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 4A. Notwithstanding any other provision of
12 this chapter, a person engaged in the business of manufacturing
13 micro-distilled spirits may sell micro-distilled spirits
14 it manufactures at retail for consumption on the premises
15 of the manufacturing facility by applying for a class "C"
16 micro-distilled spirits permit with the authority as provided
17 in section 123.43B. A manufacturer of micro-distilled spirits
18 may be granted not more than three class "C" micro-distilled
19 spirits permits.

20 Sec. 7. Section 123.43A, subsection 6, Code 2016, is amended
21 to read as follows:

22 6. The division shall issue no more than three class
23 "A" micro-distilled spirits permits under this section to a
24 person. In addition, a micro-distillery issued a permit under
25 this section shall file with the division, on or before the
26 fifteenth day of each calendar month, all documents filed by
27 the micro-distillery with the alcohol and tobacco tax and
28 trade bureau of the United States department of the treasury,
29 including all production, storage, and processing reports.

30 Sec. 8. Section 123.43A, subsection 7, Code 2016, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

33 7. A micro-distillery may sell the micro-distilled spirits
34 it manufactures to customers outside the state.

35 Sec. 9. NEW SECTION. 123.43B Authority under class "C"

1 **micro-distilled spirits permit.**

2 1. A person holding a class "C" micro-distilled spirits
3 permit for the same location for which the person holds a
4 class "A" micro-distilled spirits permit may sell the person's
5 micro-distilled spirits only at retail to patrons by the
6 individual drink for consumption on the licensed premises where
7 the spirits were manufactured.

8 2. A person holding a class "C" micro-distilled spirits
9 permit shall purchase micro-distilled spirits the person
10 manufactures from a class "E" liquor control licensee only.

11 3. A class "C" micro-distilled spirits permit for a
12 micro-distillery shall be issued and renewed annually upon
13 payment of a fee of two hundred fifty dollars.

14 4. A person holding a class "C" micro-distilled spirits
15 permit may also sell and dispense micro-distilled spirits and
16 native wine the person manufactures to patrons on Sunday for
17 consumption on the premises between the hours of 8:00 a.m. on
18 Sunday and 2:00 a.m. on the following Monday.

19 5. Unless otherwise provided by this chapter, the
20 provisions of this chapter applicable to liquor control
21 licenses shall also apply to class "C" micro-distilled spirits
22 permits.

23 **Sec. 10. NEW SECTION. 123.43C Class "C" micro-distilled**
24 **spirits permit — application.**

25 1. Except as otherwise provided in this chapter, a class "C"
26 micro-distilled spirits permit shall be issued to a person who
27 complies with all of the following:

28 a. Submits electronically, or in a manner prescribed by the
29 administrator, an application for the permit and states on the
30 application under oath:

31 (1) The name and place of residence of the applicant and
32 the length of time the applicant has lived at the place of
33 residence.

34 (2) That the applicant is a citizen of the state of Iowa,
35 or if a corporation, that the applicant is authorized to do

1 business in Iowa.

2 (3) The location of the class "A" micro-distillery where the
3 applicant intends to use the permit.

4 (4) The name of the owner of the premises, and if that owner
5 is not the applicant, that the applicant is the actual lessee
6 of the premises.

7 b. Establishes all of the following:

8 (1) That the applicant meets the test of good moral
9 character as provided in section 123.3, subsection 34.

10 (2) That the premises for which the permit is sought is and
11 will continue to be equipped with sufficient tables and seats
12 to accommodate twenty-five persons at one time, and in areas
13 where such business is permitted by any valid zoning ordinance
14 or will be so permitted on the effective date of the permit.

15 (3) That the premises where the applicant intends to operate
16 conform to all applicable laws and health and fire regulations.

17 (4) That the applicant is not engaged in the business of
18 manufacturing beer.

19 c. Consents to inspection as required in section 123.30,
20 subsection 1.

21 2. A manufacturer of micro-distilled spirits may be granted
22 a class "C" micro-distilled spirits permit regardless of
23 whether that manufacturer is also a manufacturer of native wine
24 pursuant to a class "A" wine permit.

25 Sec. 11. Section 123.56, subsection 5, Code 2016, is amended
26 to read as follows:

27 5. Notwithstanding any other provision of [this chapter](#), a
28 person engaged in the business of manufacturing native wine may
29 sell native wine at retail for consumption on the premises of
30 the manufacturing facility by applying for a class "C" native
31 wine permit as provided in [section 123.178B](#). A manufacturer of
32 native wine may be granted not more than one class "C" native
33 wine permit. A manufacturer of native wine may be granted
34 a class "C" native wine permit regardless of whether that
35 manufacturer is also a manufacturer of micro-distilled spirits

1 pursuant to a class "A" micro-distilled spirits permit.

2 Sec. 12. Section 123.92, subsection 2, paragraph a, Code
3 2016, is amended to read as follows:

4 a. Every liquor control licensee, and class "B" beer
5 permittee, class "C" native wine permittee, and class
6 "C" micro-distilled spirits permittee, except a class "E"
7 liquor control licensee, shall furnish proof of financial
8 responsibility by the existence of a liability insurance
9 policy in an amount determined by the division. If an insurer
10 provides dramshop liability insurance at a new location to
11 a licensee or permittee who has a positive loss experience
12 at other locations for which such insurance is provided by
13 the insurer, and the insurer bases premium rates at the new
14 location on the negative loss history of the previous licensee
15 or permittee at that location, the insurer shall examine and
16 consider adjusting the premium for the new location not less
17 than thirty months after the insurance is issued, based on the
18 loss experience of the licensee or permittee at that location
19 during that thirty-month period of time.

20 Sec. 13. ALCOHOLIC BEVERAGE CONTROL — COMPREHENSIVE STUDY.

21 1. The alcoholic beverages division of the department of
22 commerce, in collaboration with the office of the attorney
23 general and interested stakeholders, shall conduct a
24 comprehensive study concerning alcoholic beverage control,
25 to include consideration of the manner of properly balancing
26 appropriate regulation of the manufacturing, distribution, and
27 sale of alcohol, wine, and beer in this state with emerging
28 trends in the industry.

29 2. In conducting the study, the division shall consider,
30 among any other relevant issues the division identifies
31 for study, issues relating to the three-tiered system as it
32 impacts the ability of manufacturers and retailers to meet
33 changing marketplace conditions and business opportunities,
34 the marketing of beer, wine, and alcohol manufactured in this
35 state, and the manner of licensing and regulating liquor

1 licensees and wine and beer permittees in this state.

2 3. The division shall submit an interim report on the
3 study, including any findings and recommendations, to the
4 general assembly by January 27, 2017. The division shall
5 submit a final report on the results of the study, including
6 any findings and recommendations, to the general assembly by
7 January 5, 2018.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill concerns micro-distilleries and the authority of
12 micro-distilleries and micro-distilled spirits manufacturers
13 and makes dramshop liability insurance requirements applicable
14 to certain native wine and micro-distilled spirits permittees.

15 Code section 123.3(29), concerning the definition of a
16 micro-distillery, is amended to provide that a micro-distillery
17 is a business that produces less than 900,000 proof gallons of
18 distilled spirits instead of the current limit of 50,000.

19 Code section 123.43A, providing for a class "A"
20 micro-distilled spirits permit, is amended. The bill
21 eliminates the current one and one-half liters per day limit
22 on sales of micro-distilled spirits on the premises. The
23 bill also allows the micro-distillery to sell the spirits it
24 manufactures to customers outside the state. The bill also
25 allows the micro-distillery to sell the spirits it manufactures
26 for consumption on the premises of the manufacturing facility
27 by applying for a new class "C" micro-distilled spirits permit.
28 The bill limits a manufacturer to no more than three of the new
29 permits.

30 Code provisions governing restrictions on transportation
31 (Code section 123.28), applications to local authorities for
32 certain permits (Code section 123.32), and records (Code
33 section 123.33), are made applicable to the new class "C"
34 micro-distilled spirits permit.

35 New Code section 123.43B establishes the authority for a

1 class "C" micro-distilled spirits permit. The Code section
2 provides that the permit shall allow the manufacturer to sell
3 its micro-distilled spirits only at retail to patrons by the
4 individual drink for consumption on the licensed premises where
5 it was manufactured, and that the person holding the permit
6 shall purchase micro-distilled spirits it manufactures from a
7 class "E" liquor control licensee only. The new Code section
8 also allows a person holding a class "C" micro-distilled
9 spirits permit and the new class "A" micro-distilled spirits
10 permit to sell and dispense micro-distilled spirits and native
11 wine the person manufactures on Sunday. The annual fee for the
12 permit shall be \$250.

13 New Code section 123.43C provides the information necessary
14 for a person to apply for a class "C" micro-distilled
15 spirits permit. The bill requires the applicant to submit
16 information regarding the applicant and the location of the
17 micro-distillery. The application shall also provide that the
18 applicant is of good moral character and that the premises for
19 which the permit is sought is authorized to sell spirits for
20 consumption on the premises by applicable zoning ordinance and
21 is of sufficient size. The bill provides that the applicant
22 may be a manufacturer of native wine but shall not also
23 manufacture beer.

24 Code section 123.56, concerning native wines, is amended to
25 allow a manufacturer of native wine to be granted a class "C"
26 native wine permit regardless of whether the manufacturer also
27 manufactures micro-distilled spirits.

28 Code section 123.92, concerning the dramshop Act, is amended
29 to provide that a class "C" native wine permittee and a class
30 "C" micro-distilled spirits permittee shall furnish proof
31 of financial responsibility by having a liability insurance
32 policy.

33 The bill requires the alcoholic beverages division of the
34 department of commerce, in collaboration with the attorney
35 general and interested stakeholders, to conduct a comprehensive

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1 study concerning alcoholic beverage control, and to submit to
2 the general assembly an interim report on the study by January
3 27, 2017, and a final report by January 5, 2018.